

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE A STAR GROUP, LLC,

Plaintiff,

v.

MANITOBA HYDRO; KPMG LLP  
(CANADA); KPMG LLP (US); and  
MANITOBA PUBLIC UTILITIES BOARD,

Defendants.

Case No. 13-cv-4501 (PAC)

**Oral Argument Requested**

**ECF CASE**

**EXHIBIT I**

*to the*

**DECLARATION OF KENNETH E. LEE IN SUPPORT OF DEFENDANT  
THE PUBLIC UTILITIES BOARD OF MANITOBA'S MOTION TO  
DISMISS THE COMPLAINT AND STRIKE THE DEMAND FOR A JURY TRIAL**

File No.: C/100/68389

**THE QUEEN'S BENCH**  
Winnipeg, Centre

BETWEEN:

**THE A STAR GROUP INC.**

Applicants,

- and -

**THE PUBLIC UTILITIES BOARD**

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Respondent.

APPLICATION UNDER: *Court of Queen's Bench Rule 14*

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**NOTICE OF APPLICATION**  
**Hearing Date: September 30<sup>th</sup>, 2010 at 10:00 a.m.**  
**Uncontested Civil Motions List**

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**FILED**  
**QUEEN'S BENCH**  
SEP 23 2010  
**LAW COURTS**  
**WINNIPEG**

**SIDNEY GREEN, Q.C.**  
704 - 444 St. Mary Avenue  
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File No.:

**THE QUEEN'S BENCH**  
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BETWEEN:

**THE A STAR GROUP INC.**

Applicants,

- and -

**THE PUBLIC UTILITIES BOARD**

Respondent.

APPLICATION UNDER: *Court of Queen's Bench Rule 14*

**NOTICE OF APPLICATION**

TO THE PUBLIC UTILITIES BOARD:

THIS APPLICATION will come on for a hearing before a judge, on Thursday, the 30<sup>th</sup> day of September, 2010 at 10:00 a.m. at The Law Courts Complex, 408 York Avenue Winnipeg, Manitoba R3C 0P9.

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the applicant's lawyer, or where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAYBE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

September 23, 2010

Issued by

  
Deputy Registrar

TO: THE PUBLIC UTILITIES BOARD  
Room 400, 330 Portage Avenue  
Winnipeg, Manitoba  
R3C 0C4

**APPLICATION**

1. The Applicant makes an application for:
  - a. An Order prohibiting The Public Utilities Board from disclosing to the public in any way whatsoever any and all information and material which emanates or originates from consulting services supplied by the Applicant or its employees to either Manitoba Hydro or The Public Utilities Board in consequence of the Applicant's or its employees employment with Manitoba Hydro and subsequently information and material supplied to the Respondent, The Public Utilities Board, between February, 2004 and September 23, 2010.
  - b. An order granting the Applicant short leave for the hearing of this application.
2. The grounds for the application are:
  - a. The Applicant and its employees created, developed and perfected intellectual property and scientific systems and procedures which were the exclusive property of the Applicant which were integral to the intellectual property owned by the Applicant;
  - b. Disclosure of reports based on the said intellectual property and ancillary material will enable competitors of the Applicant, by means of reverse engineering and other modalities, to obtain access and discover the intellectual property and other proprietary information owned exclusively by the Applicant;
  - c. The intellectual property and other information pertaining to this application is protected by a non-disclosure agreement between the Applicant and Manitoba Hydro dated February 23, 2004;
  - d. The Applicant has an agreement with the Respondent, The Public Utilities Board, not to reveal or disclose in any way whatsoever any of the Applicant's intellectual property or proprietary information;



- e. The Respondent, by order dated September 20, 2010 articulated its intention to reveal material which is the subject matter of this application which is the exclusive property of the Applicant within seven days from the date of its order; and
  - f. Such further and other grounds as this Honourable Court may allow.
3. The following documentary evidence will be used at the hearing of this motion:
- a. An affidavit in support of this application to be filed; and
  - b. Order of The Public Utilities Board No. 95/10 dated September 20, 2010.

September 23, 2010

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Counsel for the Applicant

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